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The Solicitors' Journal

VOL. LXXVIII. **Saturday, November 17, 1934.** No. 46

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Current Topics.

The Courts and Public Affairs.

WHILE the primary functions of the High Court are, first, to administer as between litigants what in the language of the Book of Common Prayer is termed, quite accurately, "indifferent justice," though, in view of the degradation to which certain words have succumbed, the phrase has apparently a sinister connotation; and, secondly, to ensure that subordinate tribunals perform their part in the administration of the law with efficiency and correctitude, it is not unfitting that every now and again the court should come into practical touch with national affairs in the recognition of the public work of others. Within the past week we have witnessed the Lord Chief Justice and some of his colleagues receiving the Lord Mayor of London and his entourage—a spectacular proceeding, which carries us back in thought at least to the year 1215, when KING JOHN granted a charter to the city, empowering it to elect a discreet and capable Mayor, who should swear fidelity to the Crown in the presence of the Justiciar—an old-time dignitary, now represented by the Lord Chief Justice. Year by year this ceremony recurs: the introduction of the newly-elected Lord Mayor, his taking the oath of fidelity, and the Lord Chief Justice offering his congratulation and good wishes for an auspicious year of office. A few days later another ceremony, also of ancient origin, which formerly had its setting in the Court of Exchequer, but is now enacted in the Lord Chief Justice's court, took place—the annual selection of those gentlemen throughout the country eligible to fill the honourable yet onerous office of sheriff. At one time, as the late F. W. MAITLAND reminded us, the sheriff was little less than a viceroy in his county, but was strictly answerable to the King. In these days his functions are much more limited; his former quasi-regal power within the shire has been seriously circumscribed, but, nevertheless, during his year of office he is still the first man of the shire; he receives the judges on their circuits, he summons jurors, he executes civil judgments, and "he has a care that the condemned murderer is hanged." Many of these duties he carries out by subordinates, but with responsibility resting in himself. In the Lord Chief Justice's Court it is merely the list of those eligible to serve that is drawn up, and from it on a later date His Majesty "pricks" the name of the one required to serve for the year. Thus, once again, the court comes into touch with the life of the whole country, in a way distinct from the ordinary duties it is called upon to perform. The function is also spectacular in the sense that we see presiding, not the Lord Chief Justice, but the Chancellor of the Exchequer, as representing the ancient connection between His Majesty's exchequer and the work of the sheriffs as then accountable for the rents and other sums collected within the shires.

Road Traffic Act, 1934: Speed Limit.

THE Minister of Transport recently addressed a letter to highway authorities with reference to the speed limit of thirty miles an hour imposed, where none exists at present, in built-up areas by s. 1 of the Road Traffic Act, 1934. A built-up area exists where the street lights are not more than 200 yards apart (apart from a direction to the contrary), or where there is a direction to that effect under the section. It is proposed to bring the section into force on the 1st January next, so far as is necessary to enable the Minister to make regulations and local authorities to make orders in accordance therewith. The speed limit cannot be brought into operation until the local authorities have considered what orders should be made and the necessary signs have been provided. The letter intimates that a general review of urban or suburban streets will not be necessary. Only those cases where the automatic operation of the Act would result in unnecessary restrictions or would not impose the limit where such imposition is desirable need be considered. It is pointed out that, in general, it would be inconvenient to de-restrict a road for a distance of less than one mile if there is a restricted road at either end of it. Village streets where restrictions are needed in the interests of public safety and where the street lamps, if any, are further apart than the statutory distance provide examples for the imposition of the limit. This section of the Act ceases to be effective on 31st December, 1939, unless Parliament otherwise determines.

Third Party Risks: New Law 1935.

IT is intimated that the Minister of Transport, who has been in communication with representatives of authorised insurers under the Road Traffic Act, 1930, has decided to bring into operation on 1st January, 1935, the provisions of Pt. II of the Road Traffic Act, 1934, and to make consequential alterations in the Motor Vehicles (Third Party Risks) Regulations, 1933. Among the new provisions are those of s. 12, which provides that where a certificate of insurance has been delivered, limitations expressed in the policy relating to (*a*) the age or physical or mental condition of persons driving the vehicle, or (*b*) the condition of the vehicle, or (*c*) the number of persons that the vehicle carries, or (*d*) the weight or physical characteristics of the goods that the vehicle carries, or (*e*) the time at which or the areas within which the vehicle is used, or (*f*) the horse-power or value of the vehicle, or (*g*) the carrying on the vehicle of any particular apparatus, or (*h*) the carrying on the vehicle of any particular means of identification other than any means of identification required to be carried by or under the Roads Act, 1920, shall be of no effect as respects third party risks (see Road Traffic Act, 1930, s. 36, sub-s. (1), para. (*b*)). Any sum paid in discharging liabilities covered only by virtue of the foregoing section is, however, recoverable

by the insurer, but the authorised insurers announce that there is no need for policy-holders to return existing certificates. Where no notice is received, policy-holders may assume that present certificates which run after 1934 will not require any alteration or amendment and will be valid for all the purposes for the new Act. Another provision within the same part of the Act (s. 16) imposes upon the user of the vehicle at the time a liability to pay a fee of 12s. 6d. (and in some cases a mileage payment) to a registered medical practitioner or to a hospital (defined as "an institution, not being an institution carried on for profit, which provides medical or surgical treatment for in-patients") in respect of emergency treatment of a person injured in a motor accident.

Domestic Disputes.

THE Bill introduced into the House of Lords by Lord MERRIVALE on 30th October to amend the law relating to proceedings between husband and wife in respect of domestic differences contains a number of proposals designed to safeguard the marriage tie rather than to facilitate its dissolution. It is provided that all matrimonial proceedings should commence by summons, but that before a public hearing the court shall consider, having regard to the information submitted before the issue of the summons, whether it will be well to hear the parties in private with a view to settlement by mutual consent. If no such consent is reached, the court may, with the consent of the parties, make an order to have effect for a limited period, or if the parties do not consent, the hearing may be adjourned to an early date. No report of proceedings of a court under these provisions may be published without leave of the court. In courts of summary jurisdiction summonses and applications to which the measure relates shall be heard and determined at sittings to be specially fixed and apart from the general business of the court. Rules may provide for, *inter alia*, (*a*) the hearing of summonses and applications in courts of summary jurisdiction within the Metropolitan Police district by a police magistrate sitting with a justice or justices of the peace selected from a panel of justices, and (*b*) the hearing of such cases outside the Metropolitan Police district by justices selected from a panel of justices. Rules made by the Lord Chancellor, with the concurrence of the Secretary of State, may give directions as to the qualifications and mode of selection of a justice for appointment as chairman of a court sitting in a petty sessions divisional area, and as to the service of women justices in such courts. Finally, it is provided that on the hearing in the High Court of any matrimonial cause or matter, or in the courts of summary jurisdiction of matters to which the measure relates, such courts respectively shall have a discretionary authority to direct that, while evidence is being given, no persons other than the parties and their professional representatives shall be present. Such a direction shall only be given where it is deemed necessary for the due administration of justice or in the interests of public decency. The decision of the court must, however, in all cases be given in open court. There are many who will feel that measures for divorce law reform might go much further and fare no worse than Lord MERRIVALE'S Bill, but few will deny the sound commonsense of proposals which aim at reconciling parties wherever it is possible by doing so to secure their future happiness.

End of the Session.

THE Matrimonial Clauses (Amended Procedure) Bill, referred to above, has now passed through the second reading stage in the House of Lords. Lord MERRIVALE explained that the Bill does not alter existing legal rights relating to divorce or judicial separation. The Incitement to Disaffection Bill was read the third time in the House of Lords without a division last Tuesday, and the Poor Law Bill was read the second time on the same day. The following measures have not been proceeded with during the session: The Coal Mines Bill, the Merchandise Marks (Trade Descriptions) Bill, the Educational Endowments (Scotland) Bill, the Harbours, Piers and Ferries (Scotland) Bill, the Disease of Fish Bill and the Sea Fisheries Regulation Bill. The Betting and Lotteries Bill passed through the third reading stages in the House of Commons in the early hours of Wednesday morning. The powers of search which the Act is to confer provoked a long discussion and a proposed clause, which would have rendered the power dependent upon a judge of the High Court being satisfied by information on oath that there was reasonable ground for suspecting that an offence under the Act had been committed, was negatived.

Depressed Areas.

THE reports of the four Commissioners appointed to investigate conditions in the depressed areas were presented to the House of Commons on 6th November, and the debate in the House thereon began last Wednesday. Mr. J. C. C. DAVIDSON, Chancellor of the Duchy of Lancaster, dealt with Cumberland and Haltwhistle; Captain D. EUAN WALLACE, Civil Lord of the Admiralty, with Durham and Tyneside; Lieut-Col. Sir WILLIAM PORTAL with South Wales and Monmouthshire; and Lieut-Col. Sir ARTHUR ROSE with Scotland. The remedies upon which reliance is placed include the revival trade in the districts themselves (the prospect of some improvement being, in the words of the Chancellor of the Exchequer, "certainly not hopeless"), the transfer of persons under thirty-five to other districts—an enterprise favoured by the revival of industry elsewhere—development through the Unemployment Assistance Board and the Ministry of Labour of training facilities, the appointment of two whole-time Commissioners, one each for England and Scotland, and a preliminary grant of £2,000,000. The last two are regarded as special remedies due to the existing acuteness of the problem. The Commissioners, who are honorary, are not expected to deal with work falling within the province of existing bodies. Their primary function will be rather to enlist local effort and utilise voluntary assistance in order to initiate and prosecute schemes which lie outside existing public administration, but, in the Chancellor of the Exchequer's words, "which appear to offer more prospect of employment or occupation, or the reaching of a higher standard for those who are resident in these areas." The clearing up of derelict areas and works in connection with the land are suggested. The Commissioners are not to be afraid of experiments, and are to have powers of compulsory acquisition of land. Legislative powers to carry the various remedial suggestions—only the barest outline of which have been capable of indication here—will be sought in the coming session of Parliament.

Crossing Places.

IT is announced that on account of urgency the Minister of Transport has, under s. 2 of the Rules Publication Act, 1893, made the Traffic Signs (Pedestrian Crossings) (No. 2) Provisional Regulations, 1934, to come into force forthwith as provisional regulations, and to continue in force until statutory rules shall have been made in accordance with the provisions of that Act. This, in effect, extends the system of marking crossing-places by the yellow globes and studs which have become familiar objects in London to the whole country. In future any pedestrian sign will have to conform to this standard. The uniformity which will thus be secured cannot be regarded as other than desirable. We do not propose to enter into the controversy to which the Belisha-beacon (as the device, be its life long or short, will always be known) has given rise. Whether these signs take the most suitable form, whether they are present at too frequent intervals or at unsuitable places, are not questions suitable for treatment here. But the general slowing down of traffic in the Metropolis since their inception is a point in their favour. Time alone

will show whether the improvement is permanent. As the Minister of Transport intimated, in a recent letter to Sir HENRY JACKSON, chairman of the London and Home Counties Traffic Advisory Committee, the few weeks which have elapsed since the erection of these signs cannot be said to have given a reasonable time or provided reasonable experience for reviewing the present arrangements. Meanwhile the leakage of alleged information concerning recent proceedings of the Traffic Advisory Committee is wholly to be deplored. This constitutes a breach of the well-recognised rule that the committee's decisions shall not be communicated to the press except by the secretary after consultation with the chairman. Indiscretions of this character, resulting in the present case in an open letter from the Ministry to the committee, are not calculated to promote the harmony necessary between the two in furtherance of their common object—the safety of the public. It is interesting to note that Parliament is to have an opportunity of examining the signs which will be erected to indicate the existence of a " built up " area under s. 1 of the Road Traffic Act, 1934. This should obviate in their case the criticism which has been levelled against the beacons on the ground that there was too little consultation before the particular form which the warning sign should take was decided upon.

Recent Decisions.

DISCHARGING rules *nisi* for orders of attachment for alleged contempt of court in *Rex* v. *Proprietor, Printer and Publishers of the " Daily Worker " ; ex parte Goulding and Others and Rex* v. *Editors, etc., of the " Star," " Daily Telegraph " and " New Leader "* (*The Times*, 10th November), the Lord Chief Justice drew attention to the fact that every libel on a person about to be tried is not necessarily a contempt of court. The applicant must show that something had been published which either was intended, or at least calculated, to prejudice a trial which was pending (see *Reg.* v. *Payne* [1896] 1 Q.B. 577). There was no suggestion of any deliberate intention on the part of any of the defendant newspapers to prejudice the trial of the men concerned.

Order 39, r. 6, of the Supreme Court Rules was applied in *Crowley* v. *Constable and Co. Ltd.* (*The Times*, 8th November) by the Court of Appeal in dismissing an appeal from a judgment against the applicant who had brought an action for libel. The judge who tried the case said that the plaintiff had to prove that his reputation had been damaged. That, as GREER, L.J., pointed out, was not quite accurate. The publication of a defamatory statement is sufficient. In such a case the law presumes the damage and a plaintiff is entitled to at least nominal damages. Under the Order, however, a new trial should not be granted on grounds of misdirection unless in the opinion of the Court of Appeal some substantial miscarriage of justice has been occasioned.

In *Re Forshaw : Wallace* v. *Middlesex Hospital* (*The Times*, 14th November), the Court of Appeal overruling a decision of BENNETT, J., held that a provision in a will that, after a life interest, property should " revert unconditionally to the Middlesex Children's Hospital, Middlesex-street, London, W." could be construed *cy-pres*, and that the Middlesex Hospital, London, had been sufficiently indicated as the beneficiary. That is not solely a children's hospital. There is no hospital of that name in Middlesex or in Middlesex-street, London, and the street itself is in the " W." district.

In *Barrett* v. *London General Insurance Co. Ltd.* (*The Times*, 14th November) GODDARD, J., applied the principles relating to unseaworthiness of vessels for insurance purposes to unroadworthiness of road vehicles, and held that an insurance company which had failed to prove that a tri-car was unsafe or unroadworthy when it set out on its journey was liable on a motor car policy. The accident giving rise to the claim was due to the mechanical failure of the hand brake at the critical moment. On the relevant principle, see *Dixon* v. *Sadler*, 5 M. & W. 405 ; 8 M. & W. 895, and *Piccard* v. *Shepherd* 14 Moo. P.C. 471, 494.

Criminal Proceedings and Servants of the Crown.

A POPULAR misconception that the Crown is in all matters, both civil and criminal, " above the law " has recently received some support as the result of a decision at Luton Petty Sessions on 27th October that the driver of a six-ton motor lorry belonging to the Postmaster-General was immune from prosecution under the Highway Act, 1835, for obstructing a main street for an hour and twenty minutes. It was stated on behalf of the Postmaster-General that the driver was not personally in default, but was executing his duty on behalf of the Crown, and was not a free agent to say where he should stand and how long he should stand there. It was successfully pleaded that the Highway Act did not bind the Crown.

Further support for the assumption that servants of the Crown are an entirely privileged class comes from a newspaper article commenting on this case, which said that in London alone there were at least 2,000 motorists who could " twiddle their fingers at all Mr. Hore-Belisha's regulations and get away with it," and an official of the Ministry of Transport was quoted as saying : " It is the King's highway to-day just as much as it was in the past, and the old customs apply equally not only to all the King's horses and all the King's men, but to his motor cars as well." " Each department," said the writer of the article, " stresses upon its drivers the fact that though legally above the law, they are required to observe all the regulations which are binding upon ordinary users of the road."

The proposition that the Crown is above the law is only partially true. The King has a " royal prerogative," defined by Dicey as " the residue of discretionary or arbitrary authority legally left in the hands of the Crown," and by Swinfen Eady, L.J., in *Attorney-General* v. *De Keyser's Royal Hotel* [1919] 2 Ch. 197, as " those powers which the executive exercises without Parliamentary authority." In Bacon's " Abridgement," 7th ed., p. 462, it is stated : " Herein a general rule hath been laid down and established, viz., that where an Act of Parliament is made for the public good, the advancement of religion and justice, and to prevent injury and wrong, the King shall be bound by such Act, though not particularly named therein. But where a statute is general, and thereby any prerogative, right, title or interest, is divested or taken from the King, in such case the King shall not be bound unless the statute is made by express words to extend to him." A similar statement is to be found in Blackstone's " Commentaries," Book I (9th ed., p. 261) : " The King is not bound by any Act of Parliament, unless he be named therein by special and particular words . . . Yet, where an Act of Parliament is expressly made for the preservation of public rights and the suppression of public wrongs and does not interfere with the established right of the Crown it is said to be binding as well upon the King as upon the subject." Plowden, 240, states that the ground for the rule is " because it is not an Act without the King's assent, and it is to be intended that when the King gives his assent he does not swear to prejudice himself or bar himself of his liberty and his privilege, but he assents that it shall be a law among his subjects."

There have been cases in which servants of the Crown have been held not to be criminally responsible under statutes which do not bind the Crown. Few of these are in the Reports, the first being specially reported at the request of Lord Alverstone, C.J., as a footnote to *Cooper* v. *Hawkins* [1904] 2 K.B. 165. The decision was *Gorton Local Board* v. *Prison Commissioners*, and was a case stated by magistrates. A prison was vested in one of H.M. Principal Secretaries of State under the Prison Act, 1877, s. 5, but by virtue of s. 48 the legal estate was to be deemed to be vested in the Prison Commissioners to be disposed of by them in such mode as the Secretary of State, with the consent of the Treasury, might direct. The plot of land was within the district of the Gorton

Local Board, which was duly incorporated under the Public Health Acts. One of the bye-laws of the local board provided that no new houses should be occupied until the house drainage had been made and completed, nor until such house had been certified by the local board, or their officer authorised to give such certificate after examination to be in every respect fit for human habitation. The Prison Commissioners decided to erect officers' quarters for the use of the prison on the plot of land, but no plans were submitted to the local board before erection, and the prison authorities refused the local board permission to inspect in order to find whether they were fit for habitation. The local board took proceedings to enforce their by-laws, and the magistrates held that, as the Crown was not named in the Public Health Acts, they did not bind the Crown. On a case stated, Day, J., confirmed that the Crown was not bound, as there were no express words, nor was there any necessary implication. "Here the Crown is not mentioned," said the learned judge, "and no necessary implication of any sort or kind arises, and it is clear that the Crown by its officials is quite competent to provide for the sanitary condition of these houses . . . the State is not to be controlled in the disposition of the property entrusted to the State for state management by any local authority whatever. Wills, J., said: "How can it be said here that there is a necessary implication of the Crown? It is not necessary, as it seems to me, for the purposes of the public health and public good, which are intended to be served by the Public Health Act, that this jurisdiction shall be vested in the local board."

An even more direct authority is the decision following on the *Gorton Local Board Case*. In *Cooper* v. *Hawkins* [1904] 2 K.B. 164, the appellant, an engine driver in the employ of the War Office, was charged with exceeding a speed limit of two miles per hour, imposed by the Locomotives Act, 1865. The appellant, in exceeding the speed limit and driving at three miles per hour, was acting in the course of his duty and under the instructions of his superior officer.

Lord Alverstone, C.J., said that the point of difficulty in the case was that s. 4 of the Locomotive Act, 1865, "is a section which must be held to be enacted for the public safety, and therefore it is contended that the object of the Act being to protect the public, it ought to be held to bind the Crown." His Lordship held that the section did not come within that category, and that it seemed to be far less of that character than the one under consideration in the *Gorton Case*. He also emphasised the fact that no question of nuisance arose. "There is no question of anything being done which was unnecessary, no question of any individual act by the driver, apart from the performance of his duty as a servant of the Crown, using the property of the Crown and under the direction of the Crown. Therefore the personal element of what a man may be charged with, either civilly or criminally, in consequence of his own conduct, cannot be justly and properly raised in this case." Wills, J., agreed that the Act was "not one of those enactments of paramount importance to public safety which require that a great public department should be responsible if its servants, in the performance of their duties and acting under orders, should exceed the rate of speed which is provided for." With regard to the binding of the Crown by by-laws, Wills, J., said: "I cannot help thinking that the fact that the section would, at the will of the local authorities, subject the persons who are engaged in the performance of duties of this kind, to liabilities which, at the time this Act was passed, could not be known or foreseen, is a strong argument against the supposition that the Crown consented beforehand to allow itself to be bound by an Act of Parliament which provides for by-laws which may be imposed by local authorities."

This decision was followed by a Divisional Court consisting of Darling, J., Avory, J., and Salter, J., in *Chare* v. *Hart* (1919), 120 L.T.R. 443, in which a civilian in the employ of the Army Service Corps, acting under military orders, drove a locomotive with five unloaded waggons and a water cart attached, along a highway. The locomotive was hired by the Army Service Corps and was being used to transport forage for the troops. The driver was charged under s. 6 of the Locomotive Act, 1893, providing against the use of a locomotive on a highway to draw more than three unloaded waggons, with or without any waggon solely used for carrying water for such locomotive. Darling, J., as he then was, said: "The ordinary rule is that even statutes, and *a fortiori* by-laws, do not bind the Crown unless it is named in them." His lordship also quoted extensively from passages in the judgment of Wills, J., in *Cooper* v. *Hawkins* (*supra*), to the effect that military necessity may justify great speed being used in the transport of materials.

These decisions and dicta clearly fall far short of giving entire immunity to servants of the Crown from criminal process. As Wills, J., pointed out in *Cooper* v. *Hawkins* (*supra*), an act of overdriving might be a man's own personal act, for instance, if the man were drunk, or under circumstances in which he was not performing a public duty, and was not acting in accordance with superior orders. The Highway Act, 1835, is a consolidating statute dealing with many matters, and *inter alia* makes the wilful obstruction of the free passage of any highway an offence, punishable by a maximum fine of 40s., over and above the damages occasioned thereby. The Act does not expressly exempt the Crown, and on the ground of public safety much could be said in favour of the view that the Crown is not exempted from the operation of the Act by necessary implication. The ground of public safety would apply with even more force to the Road Traffic Acts, 1930-1934, and it is no doubt owing to the difficulty of the law on this subject that s. 121 (2) of the Road Traffic Act, 1930, provides that Pt. I and Pt. III of the Act, other than s. 54 dealing with extraordinary traffic, shall apply to vehicles and persons in the public service of the Crown. For the purpose of proceedings for an offence in connection with any such vehicle against any person, other than the driver of the vehicle, the person nominated in that behalf by the department in whose service the vehicle is used shall be deemed to be the person actually responsible, unless it is shown to the satisfaction of the court that the owner alone was responsible. It should be observed that provisions (*a*) imposing restrictions on persons under twenty-one years of age with respect to the driving of heavy locomotives, light locomotives, motor-tractors, or heavy motor vehicles; (*b*) regulating the number of trailers which may be drawn by motor vehicles (see *Chare* v. *Hart*, *supra*); or (*c*) limiting the time for which drivers of certain vehicles may remain continuously on duty; shall not apply in the case of motor vehicles owned by the Admiralty, the War Department, or the Air Ministry, and used for naval, military or air force purposes, or in the case of vehicles so used while being driven by persons for the time being subject to the orders of any member of the armed forces of the Crown. This section applies also to the Road Traffic Act, 1934, which is to be construed as one with the principal Act (s. 42). Probably, in order to obviate misunderstandings, a similar clause will be inserted in future legislation dealing with matters connected with the safety of the public.

When Whist Drives are Illegal.

THE approach of winter lends interest to two recent cases. In *Saunders and Another* v. *Drury*, at Wandsworth County Court, the claim was for £20, received for the use of the plaintiffs, or in respect of which the defendant was their trustee or agent. The plaintiffs' case was that (*a*) in response to advertisements, they had paid their entrance fees for a whist drive at Wandsworth Baths (organised by the defendant) at which £20 was offered as the prize for the highest score, (*b*) they obtained the highest score, but a man (at the back

of the hall) had then stated that one of the plaintiffs had been debarred from other halls, and the master of ceremonies awarded the prize to the partners with the next highest score. The defendant denied that he had received the money as alleged, and (while admitting that the plaintiffs had taken part in a whist drive promoted by him) he contended that (1) they had entered on condition that the decision of the master of ceremonies, regarding the award of any prize, should be final and binding, (2) the master of ceremonies had decided that no prize should be awarded to the plaintiffs or either of them. In a reserved judgment, His Honour Judge Harington pointed out that (*a*) there was no evidence that either of the plaintiffs had cheated, or been guilty of any misconduct disentitling them to the prize, (*b*) the allegation of exclusion from other halls would be no answer to their claim, if an action for recovery of the prize was maintainable at law. Only two questions arose, viz.: (1) Was the whist drive in question an illegal game ? (2) If so, could the plaintiffs maintain an action for their prize ? As the game had been played in breach of the Betting Act, 1853, s. 1, it was held that the answer to the first question was in the affirmative. As the game was illegal, the answer to the second question was in the negative, and the action could not be maintained at law. Although the claim therefore failed, it was nevertheless held that the defendant was not justified in giving the £20 to the runners-up, on the ground of the exclusion of one of the plaintiffs from other halls. This allegation had not been proved, and, as the runners-up had no better title than the plaintiffs, the master of ceremonies had not acted properly in his award of the first prize. Judgment was given for the defendant, without costs, and leave was given to the plaintiff to appeal. An application to amend the claim, by the addition of an alternative claim for 3s. (being the amount of the entrance fees paid by the plaintiffs) was granted, and judgment was given in their favour for this amount, without costs.

The question as to the legality of the whist drive was covered by *Bennett* v. *Ewens* [1928] 2 K.B. 510, in which the facts were practically the same, i.e., an entrance fee was paid by partners, and money prizes were offered. The respondent was summoned for using a room in contravention of the second part of s. 1 of the Betting Act, 1853, but the Hampshire magistrates held that the game of whist was not an " event or contingency " within the section, and they dismissed the summons. On a case stated, however, the Divisional Court allowed the appeal by the police. Lord Hewart, L.C.J., agreed with the magistrates to a certain extent, viz., that the game of whist was not an event or contingency within the section. He pointed out, however, that the complaint was that a certain valuable thing was to be paid or given on the happening of a certain event or contingency relating to that game—in other words, victory or defeat. Mr. Justice Avory and Mr. Justice Shearman concurred, and the case was, therefore, remitted to the magistrates, with a direction to convict. The court held that it was not necessary to prove betting (to constitute an offence under the section) but pointed out that the competitor staked his entrance fee against the prize money, and the question of winning or losing depended partly on the shuffling of the cards.

The second question in the first-named case, *supra*, viz., with regard to the recoverability of the prize money, was decided in accordance with an old principle, which had been re-affirmed in *Brightman & Co. Ltd.* v. *Tate and another* [1919] 1 K.B. 463. The claim was for £1,171, the balance due for completing a building, which had been erected at a cost of £2,671 in 1917. At that date a licence from the Minister of Munitions was necessary (under the Defence of the Realm (Consolidation) Regulations, 1914, Art. 8E), but a licence had only been obtained for a building costing £1,500. The defendants therefore contended that, as the amount claimed had been spent under an illegal contract, it was irrecoverable. Mr. Justice McCardie upheld this submission, and quoted, among other judgments, that of Holt, C.J., in *Bartlett* v. *Vinor* (1692), Carth. 251, 252, viz. : " Every contract made for or about any matter or thing which is prohibited and made unlawful by statute is a void contract, though the statute itself does not mention that it shall be so, but only inflicts a penalty on the offender, because a penalty implies a prohibition, though there are no prohibiting words in the statute." Similarly, in *Langton* v. *Hughes* (1813), 1 M. & S. 593, 596, Lord Ellenborough stated : " What is done in contravention of the provisions of an Act of Parliament cannot be made the subject matter of an action."

The other recent case was heard at the last Cardiff Quarter Sessions, where a club secretary was indicted on fifteen counts (under the Betting Act, 1853, and the Gaming Houses Act, 1854), for using the premises for unlawful gaming, and for receiving money for vouchers contingent upon games of whist. The case for the prosecution was that the competitors paid entrance fees, which constituted bets with the promoters, but the defence was that the prizes were not derived from entrance fees, which were devoted to the club funds. The further evidence for the defence was that (1) the prizes were provided by the management committee of the club, which was subsidised by a political party ; (2) the premises were not a common gaming house, but a *bonâ fide* social club, in which only members and visitors were allowed to take part in whist drives ; (3) the latter were held regularly, but the only games played were partner or semi-partner whist, which were games of skill, as opposed to progressive whist, which (being a game of chance) was not played ; (4) the element of chance in partner whist was negligible, being comparable to the weather element in outdoor games. In his summing up, Mr. R. E. L. Vaughan Williams, K.C. (Recorder), cited cricket as an illustration of the circumstance that an element of uncertainty did not necessarily make a game one of chance, as it might still remain a game of skill. Having been found guilty on twelve counts, the defendant was fined 10s., but an order for the payment of costs, viz., £15, was made against him.

There appears to be no reported civil case on this subject, as all the reported decisions were given on appeals from convictions, either by juries or by magistrates exercising summary jurisdiction. The only question before the Court of Criminal Appeal (or Divisional Court) has therefore been : Was there any misdirection, or was there evidence upon which the conviction could be supported ? This has usually been shortly answered, either in the affirmative or negative, and no pronouncement has been made as to the circumstances in which whist drives are illegal. The only certainty which has emerged from the cases is that partner whist is a game of skill, whereas progressive whist is a game of chance, as not only the cards but also the partners are shuffled.

Company Law and Practice.

The Fiduciary Position of Promoters.

I HAVE no doubt at all that the majority of my readers are fully conversant and familiar with the law relating to those persons who are called " promoters." In most cases the word is used with small regard for the rights and obligations which the law attaches to it ; and I propose this week for the benefit of the minority and of the majority of my readers to consider the fiduciary position of persons whom we so casually call promoters. It may well be that the maxim " familiarity breeds contempt " is applicable to what I have to say ; but I would venture to suggest that contempt is not to be cultivated and actively practised in connection with this branch of law. On the contrary, familiarity is eminently desirable, and this for two reasons : first, because certain obligations in connection with prospectuses are cast upon promoters by ss. 35 and 37 of the Companies Act ; and, secondly, because it is well-settled law

that promoters are, in relation to companies at whose birth they assist, in a fiduciary position.

To begin at the beginning, let us see what the law understands the word "promoter" to mean. Sub-section (4) of s. 37 defines the expression, for the purposes of that section, as one who was a party to the preparation of the prospectus, or of the portion thereof as contains the untrue statement with which s. 37 deals; but it excludes from the expression any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of a company. And s. 276 appears to consider a promoter any person who has taken part in the formation or promotion of the company.

It will be sufficient for our purposes to consider the definitions of the word given in three cases, as illustrating the reluctance which the courts have felt in confining it within a definite compass. In *Twycross* v. *Grant*, 2 C.P.D. 469, Cockburn, C.J., said at p. 541: "A promoter, I apprehend, is one who undertakes to form a company with reference to a given project and to set it going, and who takes the necessary steps to accomplish that purpose." And in *The Emma Silver Mining Company Limited* v. *Lewis & Son*, 4 C.P.D. 396, the view of Lindley, J., at p. 407, is that "the term 'promoter' involves the idea of exertion for the purpose of getting up and starting a company (of what is called 'floating it') and also the idea of some duty towards the company imposed by or arising from the position which the so-called promoter assumes towards it"; while Bowen, J., in his judgment in *Whaley Bridge Calico Printing Company* v. *Green and Smith*, 5 Q.B.D. 109, is even more reluctant and really begs the question when he says at p. 111: "The term 'promoter' is a term not of law, but of business, usefully summing up in a single word a number of business operations familiar to the commercial world by which a company is generally brought into existence." The truth of the matter is that the term comprises so many and varied aspects that a watertight definition is impossible of creation, and each case must depend upon its own facts: Two possible and general methods of testing the contention that a certain person is a promoter may be formulated broadly thus: has he the moulding of the company, and is that responsibility resting upon him, and, or in the alternative, is he in a fiduciary position towards the company?

As to this fiduciary relationship, it was long ago settled that such exists between two persons, where by reason of the confidential nature of their relations the one was able to exercise influence over the other; for example, solicitor and client, guardian and ward. And the courts did not hesitate to restrain too great an exercise of that influence. This excellent doctrine was extended to the relation existing between a promoter and the company he helps to bring into being by the case of *Erlanger* v. *The New Sombrero Phosphate Company*, 3 A.C. 1218. That case is authority for the proposition that persons who purchase property and then create a company in order that it shall purchase from them the property they possess stand in a fiduciary capacity towards the company, and must faithfully state to the company the facts which apply to the property, and would influence the company in deciding on the reasonableness of acquiring it. Lord Cairns, L.C., expressed his views thus at p. 1236: "They [the promoters] stand, in my opinion, undoubtedly in a fiduciary position. They have in their hands the creation and moulding of the company; they have the power of defining how, and when, and in what shape, and under what supervision, it shall start into existence and begin to act as a trading corporation."

Again, at p. 1255, Lord O'Hagan said: "The original purchase of the island of Sombrero was perfectly legitimate—and it was not less so because the object of the purchasers was to sell it again, and to sell it by forming a company which might afford them a profit on the transaction. The law permitted them to take that course, and provided the machinery by which the transfer of their interest might be equitably and beneficially effected for themselves and those with whom they meant to deal. But the privilege given them for promoting such a company for such an object involved obligations of a very serious kind. It required, in its exercise, the utmost good faith, the completest truthfulness, and a careful regard to the protection of the future shareholders." A lower standard was adopted by Lord Blackburn, when he gave his opinion on the matter, at p. 1269, and said that promoters must make a reasonable use of the powers which they accept from the Legislature with regard to the formation of the corporation, and that requires them to pay some regard to its interests.

Having satisfied ourselves as to the existence of this fiduciary relationship, it is extremely important that we should be able to determine when the status of promoter is created, and when it ends; and neither of these are simple matters to decide. But the principle which can guide us in coming to a conclusion on a certain set of facts may be formulated in this way: when a person begins to do acts on behalf of the proposed company, then his status of promoter is in existence, and consequently the fiduciary relationship deriving therefrom commences from that date. The cases on this point are numerous, and I do not propose, nor have I the space, to deal with them here in detail. I would refer those who are interested to the cases of *Gluckstein* v. *Barnes* [1900] A.C. 240; *Emma Silver Mining Company* v. *Grant*, 11 Ch. D. 918; *In re Leeds and Hanley Theatres of Varieties, Ltd.* [1902] 2 Ch. 809. In *Glucksetin* v. *Barnes* it was given, at p. 256, as the opinion of Lord Robertson that where speculators have formed, exclusively of themselves, the directorate of a company, to be immediately floated for the purpose of buying the property which those same individuals are associated to acquire and resell, they have brought themselves directly within Lord Cairn's statement of the law in *Erlanger* v. *The New Sombrero Phosphate Company*, to which I have already referred. In *Emma Silver Mining Company* v. *Grant*, the defendant was held a promoter on the grounds that he was the person who was to form the company, he himself bought the mine, by the first contract, on behalf of the company, he entered into a second contract by his nominee on behalf of the company, he was the author of the memorandum and articles, he adopted the contract on behalf of the company; in short, he acted from beginning to end for the company, formed it and provided it with directors, made a contract for it, and adopted that contract for it. See also *Lydney and Wigpool Iron Ore Company* v. *Bird*, 33 Ch. D. 85.

It might well be that any one of these acts which I have just detailed would, by itself and in relation to the facts of the case, amount to an act of promotion. That there must be an act of promotion is definite, for a mere intention to promote is not sufficient: *Ladywell Mining Company* v. *Brookes*, 34 Ch. D. 398. Nor is a mere agreement to promote unaccompanied by the act: *In re Coal Economising Gas Company: Gover's Case*, 1 Ch. D. 182.

The question whether or not promoters are acquiring any assets as trustees for a company is one of fact; and where the whole scheme has throughout been that they are to sell to the intended company at a profit the assets which they are acquiring, the natural inference of fact is that, *qua* those assets, they are not intending to be trustees for the company, but are intending to occupy the relationship to the company of vendors: *Omnium Electric Palaces Ltd.* v. *Baines* [1914] 1 Ch. 332. The difference between the fiduciary relationship of promoters and that of out and out trusteeship is clearly recognised in *Erlanger* v. *The New Sombrero Phosphate Company*.

Lastly, as regards the termination of promotership, the case of *Twycross* v. *Grant*, to which I have made reference above, shows that so long as the work of formation continues, those who carry on that work retain the character of promoters, and that the actual formation of the company does not of

itself divest them of that character. On this point, I do not think I can do better than quote the words of Cockburn, C.J., in that case, where, at p. 541, the learned Chief Justice says: "Of course, if a governing body, in the shape of directors, has once been formed, and they take, as I need not say they may, what remains to be done in the way of forming the company, into their own hands, the functions of the promoter are at an end. But, so long as the promoters are permitted by the directors to carry on the work of formation, the latter remaining passive, so long, I think, would a jury be warranted in finding that what was done by them was done as promoters."

A Conveyancer's Diary.

Stamp Duty on Building Plots—Buildings erected before Conveyance.

In these days of numerous estates being developed for building purposes and sold off in small lots, the question of the stamp duty payable upon the conveyance of each lot is of importance. I recently had to consider the matter in connection with an estate where most of the lots were conveyed before any building had been erected, some, however, after some part of a house had already been erected and others where a house had in fact been completely built before conveyance.

I could find no judicial authority dealing with the subject, but there was a memorandum issued by the Council of The Law Society and published in the "Law Society's Gazette," for October, 1931, touching upon the subject. The memorandum is reproduced in Emmet's "Notes on Perusing Titles," 12th ed., Addenda, p. lxxvii–viii.

There are, of course, divers ways in which arrangements are made with purchasers. A common method is for the owner to contract to sell a plot, and at the same time for the purchaser to agree with a builder for building a house upon it. Not infrequently the owner is a limited company and the builder a subsidiary company.

If in such circumstances the owner conveys the plot before the erection of any buildings the stamp duty is merely upon the price of the plot. It is when building operations are commenced, and perhaps completed before conveyance, that the difficulty arises.

My attention has now been called to a decision of the Court of Sessions in Scotland which is directly in point: *McInnes* v. *Inland Revenue* [1934] S.L.T. Rep. 365. I cannot find that this case has anywhere been commented upon in this country, and it is worth while examining it closely.

Perhaps before setting out the case as fully as is necessary to understand the purport and importance of it, I had better refer to the principal provisions of the Stamp Acts affected.

The schedule to the Act of 1891, under the heading: "Conveyance or transfer on sale," is familiar to us all.

Then there is s. 54, which enacts that "the expression 'conveyance on sale' includes every instrument . . . whereby any property or any estate or interest in any property, upon the sale thereof is transferred to or vested in a purchaser or any other person on his behalf or by his direction."

Section 56 (2) is to the effect that, where the consideration is an annuity payable for a definite period exceeding twenty years, or in perpetuity, the duty is to be charged with *ad valorem* duty on the total amount payable during twenty years—in other words, on the capital value of the annuity calculated at twenty years' purchase.

Section 73 of the Act of 1900 provides for the certificate of value where the consideration is under £500, the terms of which we all know so well.

Section 10 of the Act of 1900 enacts that "A conveyance on sale made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration of a covenant by the purchaser to make, or of his having previously made, any substantial improvement of, or addition to, the property conveyed to him, or of any covenant relating to the subject-matter of the conveyance, is not chargeable, and shall be deemed not to have been chargeable with any duty in respect of such further consideration."

I may now turn to *McInnes* v. *Inland Revenue*.

The facts in that case were that one McInnes entered into two contracts by correspondence with one Keanie to purchase a plot of land in consideration of a feu-duty (rent-charge) of £4 4s. a year, and with Keanie Limited (a building company of which Keanie was the managing director and in which he held practically all the shares) whereby the company was to build a house upon the plot for £630. The company entered and built the house, and after it was completed Keanie executed a feu-contract (that is a conveyance) in favour of McInnes.

The feu-contract was expressed to relate only to the plot of land (no mention being made of the house) the consideration being stated to be a feu-duty of £4 4s. a year. The feu-contract contained a covenant by McInnes to build a house on the plot within twelve months "so far as not already done." It also contained the certificate in the usual form that the consideration did not exceed £500.

The feu-contract was submitted to the Commissioners of Inland Revenue under s. 12 of the Stamp Act, 1891, and the Commissioners assessed the stamp duty at £7 10s., being £1 in respect of the capitalised value of the feu-duty and £6 10s. in respect of £630, the value of the house.

At the request of McInnes a case was stated for appeal to the Court of Sessions.

The Court upheld the assessment made by the Commissioners.

The Lord President (Lord Clyde), after shortly stating the main facts, said: "Now, of course, the question of the assessment of the stamp duty is an *ad valorem* question, and depends upon the ascertainment of the consideration given for the feu-contract, which is in law and in fact neither more nor less than a conveyance on sale; and so far as the bare terms of the feu-contract go, it does not appear to be doubtful that the consideration would have to be estimated entirely on the basis of the foresaid feu-duty." The Lord President then referred to the correspondence which constituted the contract between McInnes and Keanie and that between McInnes and Keanie Limited, and the carrying out of the latter contract, and continued: "The result of that state of matters was that, when the feu-contract came to be granted, the subject of conveyance had become, not a building plot, but a plot of land already built on, and built on at the charges of Mr. Keanie's limited liability company in intended execution of the missive between Mr. McInnes and them. The terms of the feu contract were not adjusted to the new and it may be unexpected situation which had thus arisen. On the contrary, the obligation, for example, to put up a house within twelve months from the date of the feu-contract sufficient to secure the feu-duty was allowed to remain just as if nothing had happened, and as if the parties were dealing with the situation *tabula rasa* . . . The further effect was that the feu-contract, and I do not doubt for a moment that the parties fully realised this, actually became the conveyance on sale, not only of the plot of land, but of the house which had been built upon it." And later his lordship observed: "It is familiar that, in considering those questions of stamp duty on this, that or the other class of conveyance, the matter to be considered is one of substance, and is not to be confused or obscured by questions of form. I think, therefore, it is vain to say that in form all we have got before us is a feu-contract and a feu-duty of four guineas. We must look further than that; we must take into account the fact that the feu-contract was an instrument for conferring upon Mr. McInnes the property not only of the land, but of the house which he had stipulated to be built for him, and that

the true consideration, which was got by that one instrument as a conveyance on sale, was on the one hand a feu-duty and on the other hand £630."

Lord Blackburn concurred, and after shortly referring to the facts, said: "Now, those being the facts, when you come to consider the question of what was the value and what passed at the date of the feu-contract to the appellant, it seems to me to be perfectly clear. The whole thing is one transaction. He gets the land for four guineas (feu-duty) and he gets the house for £630 at one and the same time, and as part of one and the same transaction."

Lord Morison also agreed, and referred specifically to s. 10 of the Act of 1900. His lordship said: "The value of the ground was £84 and that was the consideration which the appellant gave for it. The value of the house is £630. It seems to me, therefore, that it is impossible to hold that this conveyance which carries the right both to the site and the house is properly stamped with a stamp which covers only the price of the site. I think that the production of the missives is also a conclusive answer to the argument based on s. 10 of the Act of 1900. If it were a house on the site that was bought by the appellant it seems quite clear that s. 10 has no application."

I think that the principle of this decision may be applied in nearly all cases no matter what the particular form of the arrangements between the parties may be.

The question is "What did the conveyance actually pass to the purchaser?" If, for example, the vendor had partly built a house (intending it perhaps as a "decoy" house) and conveyed the plot without mention of the partly-erected house, the duty would be payable upon the value of the site and on the value of the building so far as it had gone. It is immaterial for stamp duty purposes that the conveyance purports only to be a conveyance of the site without mention of the buildings upon it.

That is what I deduce from this decision, which I have no doubt would be followed in our courts.

Landlord and Tenant Notebook.

Particulars of Title in Landlord's Pleadings.

We all know the rule of pleading by which we are directed to set forth in statements of claim the facts we propose to prove, but not the facts by which we propose to prove the facts we propose to prove. And most of us must have come to the conclusion that, however easy it sounds, the distinction between the two is often difficult to draw.

And when a landlord sues a tenant, the former's advisers may be inclined to expect too much from another principle, namely, that by which a tenant who has paid rent is not permitted to deny his landlord's title. This is all right as far as it goes, and a tenant who avails himself of the "in possession" plea authorised by the R.S.C., Ord. 21, r. 21, runs a considerable risk, as was demonstrated in an article in this Journal some time ago (76 Sol. J. 73), (an article which, I observe, is now referred to in complimentary terms in the "Red Book"). When the parties to a dispute are the original parties to the lease, the landlord need not trouble about title. But the authorities seem to show that where assignments, at all events of the reversion, have occurred, a landlord may be put to quite a lot of bother to establish, or, at all events, to plead, what is necessary. And successive improvements or simplifications of the rules have not altered the position.

In *Philipps* v. *Philipps* (1878), 4 Q.B.D. 127, C.A., an action for the recovery of land not between landlord and tenant, it was held that a general statement by the plaintiff deriving his title from divers assurances, wills, grants, etc., was embarrassing to the defendant; the meaning of the documents was a matter of law, not a fact; the defendant did not even know how many facts were proposed to be proved. But the uncertainty of the position is reflected in a sentence in the judgment of Brett, L.J.: "I will not say that it is easy to express what are the facts which must be stated or what matters need not be stated." This was followed in *Davis* v. *James* (1884), 26 Ch.D. 779, which must, I think, be considered the leading case on the question of what a landlord who has not been in possession has to plead. The action was for breaches of repairing covenants of an expired underlease. The term had, the statement of claim alleged, commenced in 1792 (defendant's counsel mentioned, as evidence of embarrassment, that a dilapidations notice had referred to an agreement for a lease made in 1791), being for ninety-one and a half years, less ten days, and the defendants were alleged assignees when it expired on 14th June, 1883. The plaintiff had become entitled to the reversion subject to the defendant's term in 1875. Also that the underlease reserved a rent of £42 a year, which the defendants had paid them till the term expired. The defendants took out a summons to strike out the pleading as being embarrassing. Kay, J., referred to Stephens: "It is sometimes necessary to show the derivation of a fee," and "the nature of conveyances or alienations must in general be stated"—not the "sometimes" and "in general"!—and, citing *Philipps* v. *Philipps*, *supra*, ruled that to protect the defendants the plaintiff must show (*a*) the nature of the reversion and that he was assignee of the reversion, and (*b*) in what manner he became assignee of the reversion.

True, in most cases tenants are not disposed to put their landlords to the proof of these matters, but I have known a case in which a busy City solicitor was called upon to travel to one of our most inaccessible county courts and to spend most of the day in its unattractive atmosphere and surroundings before entering the witness-box for the purpose of identifying his signature to a conveyance he had witnessed nineteen years earlier.

A discussion and explanation of the two authorities dealt with above will be found in *Pledge & Sons* v. *Pomfret* (1905), 92 L.T. 560, an action for trespass to the bed of a watercourse adjoining a mill. The plaintiffs' statement of claim alleged that they were owners in fee simple in possession, and referred to an assurance by lease and release to their predecessor in title in 1805, and to the general conveyance from him. This was held to be sufficient; and of *Philipps* v. *Philipps* it was said that some of the defendants were given no clue to what the plaintiff was going to prove; while in *Davis* v. *James* no inkling was given of how the plaintiff acquired the reversion. In both those cases the defendant was in occupation. Indeed, there is a world of difference between a party in possession suing a party not in possession and a landlord who has never occupied suing an occupying tenant. Further, it is one thing to establish a relationship, another to prove its terms. To be on the safe side and avoid possible costly interlocutories and adjournments, an assignee of a reversion may have to set out in his pleading a good deal that may never be in issue.

One thing he need not trouble about is the title of the tenant. This was made clear in the Irish case of *Hodgins* v. *Hickson* (1879), 39 L.T. 644. In this case the plaintiffs, claiming possession against three defendants, set out in four long paragraphs various mortgage and sub-mortgage transactions, to the first of which two of the defendants were parties as tenants-mortgagors. The statement of claim concluded with the allegation: "the defendants are in possession of the said lands, and withhold the possession thereof from the plaintiffs. The plaintiffs claim possession of the said lands." The third defendant demurred on the ground that the statement of claim disclosed, in effect, no cause of action against him. The matter was disposed of by Sullivan, M.R., who, after observing that the omission of "wrongfully" made no difference, the plaintiffs having shown a title against all the world, said: "How can the plaintiffs know what sort of possession the defendant E. Hickson may

have? He may be, as in ninety-nine instances out of a hundred in similar cases the fact is, a squatter. And if I were to allow this demurrer to stand, it would imply the extraordinary position that a plaintiff before he can recover his lands must set out how every squatter got in upon them."

Our County Court Letter.

DAMAGE BY RUNAWAY COW.

In a recent case in the Liverpool Court of Passage (*Adams* v. *Shinkfield*) the claim was for damages for negligence in the following circumstances: (1) the plaintiff was on the footpath, when the defendant's cow came along and pinned her against the railings; (2) the drover was following the cow and shouting, which tended to make the animal more excited; (3) owing to her injuries, the plaintiff was detained in the infirmary for four days, and (having had a nervous breakdown) was unable to go into the street alone. The plaintiff's case was that the cow should have been under control, but it was submitted (for the defence) that it was usual for cows to stray, while being driven along the road, and there was no case to answer. Sir W. F. K. Taylor, K.C. (presiding judge) upheld the submission, and judgment was given for the defendant, with costs. Compare *Pinn* v. *Rew* (1916), 32 T.L.R. 451, for circumstances in which damages are recoverable in such a case.

DAMAGE BY MINING SUBSIDENCE.

In *Davis* v. *Davis* recently heard at Alfreton County Court, the claim was for £32 12s. in respect of interference with the right of support of property by mining operations during the coal stoppage of 1926. The statute of limitations was pleaded in defence, but the plaintiff's case was that (1) time only began to run from the date when the subsidence became evident, viz., three years ago, (2) although he had been paid £1 for his own assistance in the mining, he had not shared in the profits, (3) there were three shafts (one being 30 feet deep) and between 100 and 150 tons of coal had been removed, (4) the amount claimed was the estimated cost of repairing the damage. The defendant's case was that (*a*) as the plaintiff himself had participated, for his own benefit, in the act of trespass which caused the damage, he had now no cause of action in trespass, (*b*) the operations had been abandoned at the plaintiff's request, whereupon the holes were filled up, and the ground was made good by "packing" as in a pit. His Honour Judge Longson gave judgment for the plaintiff, with costs.

PENSIONERS' RIGHTS ON BANKRUPTCY.

In the recent case of *In re Bradford*, at Derby County Court, the Official Receiver applied for an appropriation of part of the bankrupt's pension for the benefit of the creditors. The bankrupt had filed his petition in April, 1934, and the unsecured liabilities were £206 7s. 9d., but he had withdrawn £105 (from his account with a co-operative society) in March, 1934. The result was that the creditors had only received a dividend of 2s. in the £, and it was submitted that some provision should be made out of an annuity of £148—payable to the bankrupt as a retired railway employee. The bankrupt's case was that he could not afford to pay anything to his creditors, as he had now re-married, but His Honour Judge Longson made an order for the payment of £6 10s. a quarter to the trustee. It is to be noted that the pensions of teachers and firemen do not pass to the trustee in bankruptcy, under express provisions of the relevant statutes, which nevertheless reserve the court's power of appropriation under the Bankruptcy Act, 1914, s. 51. This power is not reserved by the Police Pensions Act, 1921, but was nevertheless held to be exercisable in *In re Garrett* [1930] 2 Ch. 137.

Reviews.

Outlines of the Law of Housing and Planning. By John J. Clarke, M.A., F.S.S., of Gray's Inn and the Northern Circuit, Barrister-at-Law. Second Edition, 1934. Crown 8vo. pp. li and (with Index) 366. London: Sir Isaac Pitman & Sons, Ltd. 10s. 6d. net.

An "outline" is a notoriously difficult type of book to write. It should present a coherent, logical account of its subject-matter so that the reader after a reasonably careful perusal should be master of the elements of the study and be in a position the more easily to make further investigations. That there is need of such a work on Housing and Town and Country Planning and the efforts which are being made to combat the evils of slums, overcrowding and haphazard "development" is undoubted. This book does not meet it. From the foregoing standpoint it is ill-arranged and overloaded with detail. It does, however, give much useful information within a comparatively small compass, but naturally falls short of what is required of a practitioner's text-book. The author has in mind chiefly those preparing for various professional examinations, but intimates that the requirements of the general reader as well as those of members and officers of local government authorities have been kept in view. Portions of the same writer's "Outlines of Central Government" and "Outlines of Local Government" have been incorporated to enable the work to be self-contained. Sir Leslie Scott, K.C., contributes an interesting Introduction.

The Law of Licensing. By C. C. Ross, M.A., of Lincoln's Inn, Barrister-at-Law. 1934. Demy 8vo. pp. xxi and (with Index) 265. London: Sir Isaac Pitman & Sons, Ltd. 12s. 6d. net.

This volume deals with the regulations and restrictions of Licensing Law in the light of the recent recommendations of the Royal Commission on Licensing, 1929–1931. It is specially recommended to students preparing for local government examinations, in which a special knowledge of this subject is required. Apart from that it contains a mass of authoritative information useful to licensing justices, legal practitioners and others interested in this department of law. The history of licensing legislation, the practical steps relating to the granting of licences, confirmation and compensation, and the general practice in regard to the licensing laws, are fully set out. A special chapter is devoted to clubs; and useful appendices of statute law embodying the Acts passed from 1910 to 1934, with forms and rules, combine to make up a volume which should interest a very large number of readers.

Books Received.

Solicitors' Book-keeping. By John R. Price, A.C.A., A.C.I.S., F.T.I., etc. 1934. Demy 8vo. pp. vii and (with Index) 116. London: Sir Isaac Pitman & Sons, Ltd. 6s. net.

The Journal of the Society of Public Teachers of Law, 1934. Edited by H. F. Jolowicz, M.A., LL.D. London: Butterworth & Co. (Publishers), Ltd. Price 3s. 6d.

Lunacy Practice. By Gerald E. Mills, O.B.E., of the Inner Temple, Barrister-at-Law, and A. H. Ronald W. Poyser, B.A., Oxon, of the Middle Temple, Barrister-at-Law. 1934. Royal 8vo. pp. xviii and (with Index) 534. London: Butterworth & Co. (Publishers), Ltd.; Shaw & Sons, Ltd. 42s. net.

The Yearly Supreme Court Practice, 1935. By P. R. Simner a Master of the Supreme Court of Judicature; H. Hinton, of the Central Office of the Supreme Court; and F. C. Allaway, of the Chancery Division. Demy 8vo. pp. clxix and (with Index) 3056. London: Butterworth & Co. (Publishers), Ltd. 45s. net.

Tax Cases. Vol. XVIII, Part VI. 1934. London: H.M. Stationery Office. 1s. net.

To-day and Yesterday.

Legal Calendar.

12 November.—When under an Act of 1830, "for the more effectual administration of Justice in England and Wales" three new judges were appointed in that year, John Patteson, one of the commissioners on the reform of the Welsh judicature whose report had led to the passing of the statute, was on the 12th November made a Justice of the King's Bench. Although he had never taken silk and had been in practice at the Bar for only nine years, the whole profession approved his elevation.

13 November.—On the 13th November, 1815, the Court of King's Bench in Dublin ordered the Rev. John Duffy to be dismissed from the post of Roman Catholic chaplain to Newgate. Admittedly, he had not discharged his duties, but the poor man pleaded that Dr. Troy, his religious superior, had threatened excommunication if he did. His counsel submitted that the duties having been performed by someone, this was not a case for the court's interference, but Osborne, J., said that they could not be done by proxy, and the Chief Justice said that if the power of the Grand Jury to appoint a chaplain was denied he would not admit the authority of any other superior.

14 November.—On the 14th November, 1778, Junius, addressing Lord Chief Justice Mansfield wrote: "The name of Mr. Justice Yates will naturally revive in your mind some of those emotions of fear and detestation with which you always beheld him. That great lawyer, that honest man, saw your whole conduct in the light that I do. After years of ineffectual resistance to the pernicious principles introduced by your lordship and uniformly supported by your humble friends upon the bench, he determined to quit a court whose proceedings and decisions he could neither assent to with honour nor oppose with success."

15 November.—In 1831 there were Reform Bill disturbances all over the country, and on the 15th November three men were tried at Edinburgh in connection with the election riots at Lauder. Large bodies of men had marched into the town filling the streets, and a party of gentlemen, opponents of reform, in trying to get through the dense masses, had been set upon and beaten. One of the prisoners being very small had been lifted shoulder high to lead cheers for Lord John Russell and the Bill and to give orders to the crowd, but no one having seen him take part in the assault, he was acquitted. The charge was found not proven against another prisoner and the third pleaded guilty.

16 November.—On the 16th November, 1616, Sir Henry Montagu resigned the Recordership of London to succeed Sir Edward Coke as Chief Justice of the King's Bench. He was expected to be more subservient to the royal will than his predecessor, and Lord Chancellor Ellesmere in swearing him in said that the "amotion and disposing" of the former Chief Justice was a lesson to be "remembered and feared of all that sit in judicial places." He secured his place by giving the Duke of Buckingham's nominee the clerkship of the King's Bench, worth £4,000 a year.

17 November.—On the 17th November, 1823, Lord Erskine, formerly Chancellor, died at Ammondell, near Edinburgh, aged seventy-three.

18 November.—It *was* possible for a wife to secure a divorce even in 1840, and on the 18th November in that year Sir Herbert Jenner in the Court of Arches decided that Lady Julia Lockwood had made out her case against her husband. In Paris he had kicked and ill-used her. At Versailles he had chased her with a stick, threatening to run it down her throat. At Lady Aldborough's he dragged her upstairs ("which no levity on her part or suspicions on his could possibly justify"). Even the law of 1840 allowed that this was cruelty.

The Week's Personality.

It was a most unfortunate thing that Lord Erskine, an advocate who for twenty-eight years had held the most prominent place at the English Bar should enjoy judicial office for only one short year. From February, 1806, to April, 1807, he retained the Great Seal as Lord Chancellor. Then the Ministry fell, and he gradually retired into private life, subsiding into the character of an idler and a man about town, gay and vivacious in company but often melancholy and brooding in private. He haunted the courts at Westminster full of regrets that he ever gave up practice at the Bar. He appeared at innumerable parties and balls. He took to literature and wrote a novel. He bought an estate in Sussex and studied farming, but made heavy losses. Altogether, he lived the life of an aimless and disappointed man with straightened circumstances added to his misfortunes, for his carelessness of money had by now eaten up his vast professional earnings. His wit, his courtesy, his generous impulses and honourable feelings impressed themselves vividly on those who met him in spite of the vanity and egotism which were the less pleasing side of his personality and which caused him to be caricatured as Baron Ego of Eye.

Carson "The Rebel."

During his case before the Lord Chief Justice, Sir Oswald Mosley scored a neat point when, in defence of certain alleged utterances of his, he invoked things which Lord Carson had said when he was a leader of the Bar. It is true that the great Ulsterman's speeches at the time of the North of Ireland crisis were plainly defiant, but he had little belief in the capacity of his opponents to go forward in the circumstances of the quandary in which he had placed them. Thus, when he left Ulster, after the signing of the Covenant, he said he longed to return "whether the occasion be for peace—I prefer it—or to fight." But he added, with an almost mischievous sense of the dilemma of his opponents: "To-day we have taken a step which has put our enemies into such a state of difficulty that they are wondering what on earth they are going to do." Years after, when discussing with Asquith the possibility there had been of prosecuting him, he said "I should have pleaded guilty and I should have said: 'My Lord Judge and gentlemen of the jury: I was born under the British flag, a loyal subject of His Majesty the King. So much do I value this birthright that I was even prepared to rebel in order to defend it. If to fight so as to remain like yourselves a loyal subject of His Majesty be a crime my Lord and gentlemen of the jury, I plead guilty.' And where," he added, "would you have been then?"

Mumbling Witnesses.

Referring to the recent newspaper correspondence with regard to indistinct judges, Mr. Justice Bennett lately said to a whispering witness: "People have been writing to the papers about mumbling judges. Don't let them talk about mumbling witnesses." Inaudible testimony has probably been an irritation to the bench ever since courts have existed. Mr. Justice Maule was once moved to cry out: "Witness, for the sake of God and your expenses speak out," and when certain witnesses were obstinately indistinct before Mr. Justice Rowlatt at the Liverpool Assizes, he said: "If they refuse to use the voice which God has given them I shall have to put them up in the gallery where they will be obliged to speak out. The public are here to hear prisoners tried and they have a perfect right to hear all the evidence." It seems almost a pity that the judge's picturesque remedy of turning the gallery into a witness box was not tried. Much more recently Mr. Justice Humphreys, in the King's Bench Division, said to a young private in the Northamptonshire Regiment, who was strangely inaudible for a soldier: "Try to think that you may be a sergeant-major later on."

Practice Note.

We have received from Sir Joseph Chitty, the Chief Master, Chancery Division, a copy of the practice directions given by the Judges of the Chancery Division on the 12th November, which are as follows:—

CHANCERY DIVISION.

PRACTICE DIRECTIONS.

1. On an application for a vesting order formal evidence will not henceforth (unless the judge otherwise directs) be required of the execution by the applicant of deeds on which he relies in presenting his application.

2. On an application for the appointment of a parent as guardian of an infant for the purpose of giving a discharge for moneys payable to the infant, the infant must (unless the judge having regard to the smallness of the amount otherwise directs) be represented by a next friend or guardian *ad litem* other than the parent.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Public Rights of Way.

Sir,—I read with interest the reply, in your issue of the 27th October to *Q.* No. 3064, with regard to the dedication of public rights of way on settled estates. In the question, it is stated that the owner maintains that there has been no dedication because (owing to the existence of the settlement) there has been no person who could have made any dedication during the last hundred years; and the reply states that the ultimate question is one of *intention* to dedicate, and that the owner's position appears to be a very strong one, assuming that he can prove his assertion.

It is, of course, perfectly true that the point at issue is one of intention to dedicate; but the reply seems to suggest that the intention has to be proved, and that, if it cannot be proved, dedication will not be presumed. Will you allow me to suggest a slight amplification of this answer? What has to be proved, in cases of this kind, is not the owner's intention to dedicate, but the facts from which the law, as laid down in the Rights of Way Act, has enacted that such an intention is to be presumed, in the absence of proof to the contrary. Thus, if, on an estate which has been in settlement for the past 100 years, it can be proved that a way ("not being of such a character that user thereof by the public could not give rise at common law to any presumption of dedication") has been "actually enjoyed by the public as of right and without interruption" for a full period of forty years, "such way shall be deemed conclusively to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate such way." That is to say, the owner's intention to dedicate is to be inferred from the public use in the manner indicated, and the owner can only negative this inference by proving that he did *not* intend to dedicate. For an owner to remain quiescent while the public use a path on his land cannot be regarded as "sufficient evidence" that he did not intend to create a public right; for it is, in fact, precisely when an owner does nothing to stop the public from using a path, or to indicate that he does not intend to dedicate it (as by occasionally closing gates, turning back pedestrians, or exhibiting "Private" notices) that dedication is presumed at law.

LAWRENCE CHUBB,
Secretary,
Commons, Open Spaces and Footpaths
Preservation Society.

Eccleston-square, S.W.1.
9th November.

Obituary.

MR. T. R. COLQUHOUN DILL.

Mr. Thomas Reginald Colquhoun Dill, Barrister-at-Law, of Old-square, Lincoln's Inn, and Parliament-street, Westminster, one of the Conveyancing Counsel of the High Court of Justice, died at Knightsbridge, on Tuesday, 6th November, at the age of seventy-five. Mr. Colquhoun Dill, who was educated at Brighton College and Christ Church, Oxford, was called to the Bar by the Inner Temple in 1885. He joined the Oxford Circuit and subsequently became a member also of Lincoln's Inn. He was part author with Mr. Alexander Macmorran, K.C., of standard works on the Local Government Acts of 1888 and 1894. He was a Past President, and at the time of his death the Secretary, of the Old Dining Club of Conveyancers known as "The Institute."

MR. J. W. ST. L. LESLIE.

Mr. John William St. Lawrance Leslie, Barrister-at-Law, of Paper-buildings, Temple, died at Monthey, Switzerland, on Saturday, 10th November, at the age of seventy-eight. Mr. Leslie, who was called to the Bar by Lincoln's Inn in 1884, was Recorder of Shrewsbury and Clerk of Assize for the Western Circuit.

MR. E. F. CHURCH.

Mr. Edgar Francis Church, solicitor, senior partner in the firm of Messrs. Church, Rendell, Bird & Co., of Bedford-row, died at his home at Kew Gardens, on Wednesday, 14th November, at the age of sixty-five. Mr. Church was admitted a solicitor in 1893.

MR. F. H. CLARK.

Mr. Frederick Hammond Clark, solicitor, a partner in the firm of Messrs. Hammond Clark & Daman, of Great St. Helen's, E.C., and Wanstead, died in Chelmsford Hospital on Saturday, 3rd November, from injuries received when he was knocked down by a motor car. Mr. Clark, who was admitted a solicitor in 1884, was seventy-four years of age.

MR. J. P. GARRETT.

Mr. Joseph Payne Garrett, solicitor, of Highgate, formerly of Great James-street, W.C., died on Sunday, 11th November, at the age of seventy-eight. Mr. Garrett was admitted a solicitor in 1877.

MR. G. C. LEMAN.

Mr. George Curtis Leman, solicitor, senior partner in the firm of Messrs. Leman, Chapman & Harrison, of Bloomsbury-square, W.C., died at Putney on Friday, 9th November. Mr. Leman was admitted a solicitor in 1892.

MR. T. W. MARKLAND.

Mr. Thomas Wild Markland, solicitor, of St. Annes-on-Sea, died on Sunday, 11th November. Mr. Markland was admitted a solicitor in 1885.

MR. F. H. WORSLEY.

Mr. Frank Howard Worsley, solicitor, Town Clerk of Stalybridge, died on Monday, 5th November, at the age of fifty-eight. Admitted a solicitor in 1907, Mr. Worsley practised in partnership with his brother, Mr. William Worsley, as Messrs. F. H. & W. Worsley. He was Deputy Town Clerk for two years, and became Town Clerk in 1913.

GRAY'S INN SCHOLARSHIPS.

An Entrance Scholarship at Gray's Inn (£100 a year for three years) has been awarded to Mr. Alexander Johnston Mackenzie, M.A., LL.B., of Edinburgh University. A Lord Justice Holker Junior Scholarship (£100 a year for three years) has been awarded to Mr. Christopher Joseph Howard Mayne, of Gonville and Caius College, Cambridge.

Notes of Cases.

Judicial Committee of the Privy Council.

Strickland *v.* **Bonnici.**

Lord Blanesburgh, Lord Thankerton and Lord Alness.
29th October, 1934.

MALTA—ALLEGED LIBEL—MORAL INJURY—"STUPID AND UNWARRANTABLE ATTACK ON TENETS OF FAITH"—"TENETS" AND "DOGMAS."

This was an appeal by the plaintiff, Lord Strickland, from the judgment of the Court of Appeal of Malta allowing the appeal of the present respondent, C. M. Bonnici, editor of a local newspaper, the *Mid-day News*, from the judgment of the Civil Court of Malta (First Hall), in the action in which Lord Strickland claimed damages and reparation for alleged moral injury against Bonnici in respect of an article entitled: "An Armistice Day in Rome," which was published in the *Mid-day News* on the 19th November, 1928. The words complained of were: "But the advent of Strickland has created such an atmosphere through his stupid and unwarranted attacks on . . . the tenets of faith." The defendant, by his defence, repudiated the claim and demanded its dismissal. The Court of Appeal, allowing Bonnici's appeal, held that he "made no departure from the truth when he put it down to the plaintiff that he had created an atmosphere of religious uneasiness by attacking, stupidly and without justification, in certain cases, the tenets of faith—the phrase being taken, not in its restrictive and theological sense, but in its ordinary and frequent meaning—in which it could have been given in a political newspaper." Lord Strickland now appealed.

Lord THANKERTON, in giving judgment of the Board, said that the appellant sought to contend that the context of the word "tenets" in the incriminated article justified the innuendo that "tenets" meant "dogmas." Their lordships, however, were unable to accept the view that, by reason of the context, the word "tenets" could only mean "dogmas." It was common ground between the parties that, while dogmas might properly be described as tenets, the latter word had a much wider range, and included opinions on religious matters which did not involve the holder of such opinions in the risk of expulsion from his church. The appellant had led no evidence to prove that the incriminated article was *per se* defamatory, and their lordships were unable to hold that it was *per se* defamatory. Appeal dismissed, with costs.

COUNSEL: *Wilfrid Greene*, K.C., and *George E. Strickland*, for LORD STRICKLAND; *Richard O'Sullivan*, K.C., and *C. J. Colombos*, for BONNICI.

SOLICITORS: *Beaumont and Son; Hy. S. L. Polak and Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Snowdon *v.* **Ecclesiastical Commissioners.**

Luxmoore, J. 25th October, 1934.

MINES—RESERVED IN CONVEYANCE—INDEMNITY TO ASSIGN—DAMAGE—TENANT OF LAND—SUBSEQUENTLY OWNER—CONVEYANCING AND LAW OF PROPERTY ACT, 1881 (44 & 45 Vict. c. 41), s. 6 (1).

On the conveyance of an estate, the vendors reserved the mines and minerals, covenanting to indemnify the purchaser, his heirs and assigns against any damage resulting from the working of them. After the minerals had become vested in the defendants, a mining lease was granted to a company, and the consequent workings caused damage to a farm, part of the estate, of which the plaintiff was tenant and subsequently became owner. He claimed that he was an assign within the meaning of the covenant with his predecessors in title, and that the defendants were liable to make good the damage caused while he was tenant, as well as since he became owner. The latter was admitted by the defendants.

LUXMOORE, J., in giving judgment, said that the tenancy was immaterial, and the damage caused before the plaintiff's ownership was not recoverable without an express assignment. Here there was none. The principle was the same as in the case of a reversion subject to a lease (*Lewes* v. *Ridge*, Cr. Eliz. 863; *Johnson* v. *St. Peter's, Hereford, Churchwardens*, 4 A. & E. 520). This case was not within s. 6 (1) of the Conveyancing and Law of Property Act, 1881. The action failed.

COUNSEL: *Gover*, K.C., and *Lucius Byrne; Archer*, K.C., and *W. Waite.*

SOLICITORS: *Tarry, Sherlock & King*, agents for *Trotter, Bruce & Loft*, Bishop Auckland; *Milles, Jennings & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Harman *v.* **Layton-Bennett.**

Bennett, J. 31st October, 1934.

BANKRUPTCY—ADJUDICATION—ORDER DISCHARGED—SCHEME—APPLICATION BY DEBTOR—ORDER RESTORES—LEAVE TO APPEAL REFUSED—DEBTOR'S POSITION.

The plaintiff was adjudicated bankrupt in August, 1932. His appeal was allowed by the Court of Appeal, the adjudication order being discharged in October, 1932, and a scheme directed. In February, 1933, the debtor asked the Court of Appeal for a variation of part of the scheme, but during the hearing, the Master of the Rolls said that the court would refuse the application, rescind the order of October and restore the order of August. Leave to appeal was refused, and the House of Lords subsequently dismissed an appeal as incompetent, since it was a bankruptcy matter in which leave to appeal had been refused by the Court of Appeal: *Harman* v. *The Official Receiver* [1934] A.C. 245. To raise the matter again, the plaintiff now asked for a declaration that the order of February, 1933, was null and void.

BENNETT, J., in giving judgment said that he had no jurisdiction. The Court of Appeal must have considered whether it had jurisdiction. If the plaintiff could not appeal against the order, he had no remedy.

COUNSEL: *Beagley; Cohen*, K.C., and *A. M. Stevenson.*

SOLICITORS: *Richard Brooks & Son; Gilbert Samuel & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Thompson *v.* **Thompson.**

Sir Boyd Merriman, P., and Langton, J.
5th and 9th October, 1934.

HUSBAND AND WIFE—SUMMONS TO VARY MAINTENANCE ORDER—EVIDENCE NOT CONFINED TO CIRCUMSTANCES SINCE ORIGINAL ORDER—SUMMARY JURISDICTION (MARRIED WOMEN) ACT, 1895 (58 & 59 Vict., c. 39), s. 7.

This was an appeal by the husband from an order made on 6th September, 1934, by the justices of the Petty Sessional Division of Gore, sitting at Wealdstone, *inter alia*, dismissing an application to vary an order made by them on 12th July, 1934, ordering the husband to pay maintenance to the wife at the rate of 25s. per week for the support of herself and the youngest child of the marriage.

The original summons was for desertion and failure to maintain. Evidence was given that the husband was an actor who had been working at times, and at times drawing unemployment benefit. The wife kept a kind of boarding-house and out of the lettings managed barely to keep herself and her two daughters. The justices, applying *Earnshaw* v. *Earnshaw* [1906] P. 160, made the order as above, stating that they thought the husband could earn £3 per week. On 23rd August, 1934, the wife took out a summons for payment of arrears, and on that day the husband applied for the present summons to vary, which was granted, and the wife's summons adjourned so that both matters could come on

together. On the 6th September the grounds (for variation) submitted were (1) that the earning power of the husband had decreased, and (2) that the means of the wife had increased, since the making of the order. At the hearing of the summons to vary, counsel for the husband sought to re-open the whole of the facts of the case. The justices refused leave to do this, holding that the evidence must be confined to any change of circumstances in the position of the parties since the order was made. In the result, the justices, as in their view no evidence of any change of circumstances on the part of either of the parties had been adduced, dismissed the summons.

Held: that the contention that the evidence must be confined to circumstances which had taken place since the date of the original order was erroneous and the case must be remitted to the justices to consider the whole of the facts.

COUNSEL: *Stanley Rees*, for the appellant husband; *H. Durley Grazebrook*, for the respondent wife.

SOLICITORS: *C. Audley Thompson; Pierron & Morley.*

N.B.—In *Claxton* v. *Claxton*, a case in the same list, a similar point arose and was similarly dealt with.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Davidson.

Lord Hewart, C.J., Avory and du Parcq, JJ.
15th October, 1934.

CRIMINAL LAW—MURDER CONVICTION—APPEAL—NO *Corpus Delicti*—RETRACTED CONFESSIONS—EVIDENCE OF ACCUSED.

This was the appeal of Thomas Joseph Davidson (34), who was convicted at the Central Criminal Court of the murder of his son, John Desmond Davidson, aged seven years, at Yiewsley, Middlesex, in December last, and was sentenced to death. Counsel for the appellant read statements alleged to have been made by Davidson in which he stated that he had drowned the boy and placed his body on a refuse dump. Substantially, counsel said, the case for the Crown consisted of the confessions made by Davidson. Apart from evidence emanating from Davidson, either by confession before trial or on oath at the trial, there was no evidence of a *corpus delicti*. A confession ought not to be acted upon, he submitted, in the absence of proof of the act done or of the body being found in circumstances such as raised the presumption that the dead person had met his death by unlawful means. In the present case there was no independent evidence of the act done or of the body being found. Counsel for the Crown said that in the present case there was not only circumstantial evidence of the death of the boy, but the evidence given on oath by Davidson in the witness-box, that he had seen the child dead, having found him drowned, and had put him on the dump. The whole of Davidson's conduct was consistent with the confessions which he had made and not with the evidence which he gave on oath which contradicted the statements in the confessions.

LORD HEWART, C.J., in giving the judgment of the court, said that the allegation that the boy was dead did not rest on the retracted confessions made by Davidson. The statement that the boy was dead was made by Davidson himself on oath. The law on the subject was accurately stated as follows in "Halsbury's Laws of England," Vol. IX, at p. 449: "Where no body or part of a body has been found which is proved to be that of the person alleged to have been killed, an accused person should not be convicted of either murder or manslaughter, unless there is evidence either of the killing or of the death of the person alleged to have been killed. In the absence of such evidence there is no onus on the prisoner to account for the disappearance or non-production of the person alleged to be dead." In the opinion of the Court it was perfectly open to the jury, after hearing Davidson's evidence, to disbelieve the retraction of his confessions and to accept the statements which he had previously made, namely, that he was the cause of the boy's death. Appeal dismissed.

COUNSEL: *F. W. Wallace*, for the appellant; *Eustace Fulton*, for the Crown.

SOLICITORS: *Registrar of the Court of Criminal Appeal; Director of Public Prosecutions.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

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THE APPOINTMENT OF MAGISTRATES.

The need for additional and experienced magistrates was emphasised at Poole Mayor-choosing ceremony recently by Alderman W. C. J. Shortt, the retiring Mayor, who is also a retired barrister. He deprecated the existing system of having a secret advisory committee whose personnel is not allowed to be known and suggested that the local advice, which the Lord Chancellor must necessarily have, should come openly from the whole body of magistrates and not from an unknown and secret committee.

Parliamentary News.

Progress of Bills.

House of Lords.

Expiring Laws Continuance Bill.
Reported, without Amendment. [14th November.
Incitement to Disaffection Bill.
Read Third Time. [13th November.
Land Drainage Provisional Order (No. 1) Bill.
Read Third Time. [14th November.
Poor Law Bill.
Reported, without Amendment. [14th November.

House of Commons.

Betting and Lotteries Bill.
Read Third Time. [13th November.

Societies.

British Records Association.

This Association held its Second Annual Meeting and Conference on the 12th November in the rooms of the Society of Antiquaries and of the Geological Society, at Burlington House. The proceedings began with a general meeting of the Records Preservation Section, the objects of which are to acquire custody of semi-public and private records of all kinds, to preserve and catalogue them and to make them available for students. Sir Matthew Nathan took the chair, and after the formal business two discussion meetings were held. One of these dealt with the cataloguing of deeds and the possibility of a uniform system ; the proper systematisation of this work will lay the foundation for a more enlightened history of conveyancing than has hitherto been possible. This meeting also discussed the importance of preserving the original grouping of records. Meanwhile, another meeting heard an account of the work of the new Council for the Preservation of Business Archives. Old account-books, correspondence and apparently worthless records relating to the economy of a business can, it was told, throw light not only on that business but also on the development and problems of commercial and industrial enterprise in general. This new sphere of activity is being prosecuted by the energetic Council of the Institute of Historical Research, in close touch with the Association.

Local Government Legislation and Local Archives.

In the afternoon the Association held a conference, which was presided over by Sir Frederick Kenyon, President of the Society of Antiquaries. A discussion on recent legislation concerning local government and its effect on local archives was introduced by Mr. W. E. Cemlyn Jones, a representative of the County Councils Association. Speaking particularly of county records, he showed how the Local Government (Clerks) Act, 1931, laid down that the records and documents relating to the business of a county council shall be in the custody of the clerk of the county council, but that such records and documents so far as they relate to the business of quarter sessions and to judicial business generally shall be in the custody of the clerk of the peace. This provision, he pointed out, leads to the separation of the quarter sessions documents from those of the county councils, and he suggested that there should be a guiding direction as to the custody of these various classes of documents. He would prefer, he said, to see them all kept by the county councils, who have the means to maintain and staff proper depositories. The Local Government Act, 1929, makes provision for a review of county districts, which has resulted in the amalgamation, partition or absorption of a large number of urban, rural and parish councils. The Ministry of Health has issued or will issue orders providing for the custody of books and documents, the principle being that the new absorbing councils should direct the custody of the documents of the absorbed councils. The Local Government Act, 1933, lays on county councils the definite duty of enquiring from time to time into the manner of preservation of the public books, writings, papers and documents under the control of the parish council or parish meeting, and of making orders for their proper custody. Each county council has therefore, said Mr. Jones, a duty to inspect all the parish records within its area. He wondered in how many counties this has been systematically done, and emphasised the importance of ensuring without delay that the documents in altered parishes are properly looked after before they can be destroyed or lost. Moreover, he said, the Local Government Act, 1929, has transferred to the county councils the highway duties of the rural district councils. These, as successors to the surveyors of highways for highway boards, have been in possession of valuable documents, records, maps and plans with regard to publicly repairable highways in their areas and also to many miles of disputable highway. Some of them have also had plans of old bridges which were not county bridges. Sometimes these documents have been found in the personal possession of district surveyors who have been retired, and he emphasised the need for great care by county councils to see that all these documents are transferred to their custody. Another effect of the Act has been the abolition of boards of guardians and the transfer of their functions to county councils and county boroughs. The records of the old boards of guardians sometimes have a joint interest for two counties, and in such cases it would, said Mr. Jones, be well to have a ruling on which council should be responsible for them. They form a gigantic mass of papers, documents, books and records of all sorts and descriptions which have accumulated since the Poor Law was reformed in 1834. In some areas where there were incorporations under Gilbert's Act they go back to the eighteenth century. They are of great value to students of social history and should be most carefully preserved. Mr. Jones paid tribute to the activity of the county councils in employing trained archivists and muniment rooms, and to the Master of the Rolls for his missionary zeal in the preservation of records. He suggested, and the meeting resolved, that the Council of the Association should consider preparing a pamphlet stating clearly the powers of preserving records which local authorities are given by Acts, church measures, and departmental orders and regulations.

Colonel J. W. R. Parker, President of the Yorkshire Archæological Society, then spoke on parochial records. He said that the deeds of local church schools are often put in danger through the schools being abolished. They are sometimes kept with the trust deeds concerning other church property, in the office of some solicitor or in a bank. He asked what was to become of them and who was responsible for them. He pressed for the establishment of the offices for ecclesiastical records which was contemplated by the Parochial Records Measure of 1899. Records of small local charities are also in danger ; they are scattered all over the country and are mostly of considerable value. Under the Local Government Act, 1894, the public books passed into the custody of the parish council or meeting, which Col. Parker thinks is unfitted for such a trust. Such bodies, he said, are difficult to persuade that old records have any value. He considers that it rests with the county councils to exercise their responsibility and, when the parish council cannot look after its records, to place them in the custody of the rural district council. Other speakers, however, warned the Association not to move too quickly, and suggested that the newly-constituted authority might do much harm by appropriating local records before it is able to deal with them properly.

At the annual general meeting held in the evening, Lord Hanworth, Master of the Rolls, who is the President of the Association, congratulated it on the great strides it has made during the past year. He announced that it now has 120 institutional members—persons representing libraries, local authorities and societies—and 320 individual members. These come from all parts of the country, and he claimed that their adherence shows a universal appreciation of the need for the Association, and the goodwill with which its efforts are received everywhere. In order to assist the work of the Records Preservation Section, he said the Association sent out a circular letter to Law Societies and solicitors asking them to inform it where records were to be found and, when they could properly do so, to hand over such records to it for custody. Many interesting responses have been received, and several Law Societies have undertaken to collaborate as far as possible. A great new opportunity is thereby opened to the section, and the Master of the Rolls said that he looked forward to large gains from these new resources. He referred also to the work which the Association hopes to do on ecclesiastical archives in collaboration with the Church authorities. He described an interesting visit to Lincoln at the end of September, during which he was shown the riches of the Chapter Library, which contains one of the original copies of Magna Carta. These copies, he explained, were sent to the cathedral cities as centres from which the knowledge of the charter could be disseminated to the public at large. He met the Bishop, the Suffragan Bishop of Grantham, the Dean, the Chancellor, the Lord Lieutenant, the High Sheriff and the Mayor, who assured him that they were prepared to co-operate with the Association and make use of its services.

He recalled that in 1910 a Royal Commission had found the public and semi-private records of the country in a bad state, and had declared that legislation had failed to produce security and order out of insecurity and disorder. Nevertheless, he continued, goodwill—as so often happened in English institutions—has not failed, and because the Association has enlisted the goodwill and interest of so many local sources and storehouses it has achieved the results it has to show, and is confident of doing even more good work in the future.

Later in the evening a reception was held at Grocers' Hall, at which the Master of the Rolls and Lady Hanworth received members and a collection of recent publications by record societies was exhibited.

Gray's Inn Debating Society.

The eighteenth meeting of the year was held in Gray's Inn Common Room at 8.15 p.m. on Friday, 9th November, when a joint debate with the Christ Church Law Society took place, the President being in the chair. The motion for debate was : " That contests in sports and games between representatives of different nations do more harm than good." The President having made a short speech welcoming the members of the visiting society, the motion was proposed by Mr. John Wood and opposed by Sir John Prichard-Jones, Bart. (Christ Church Law Society) ; Mr. H. Olaf Meeres (Christ Church Law Society) spoke third, and Mr. Eric Walker spoke fourth. On the motion being thrown open to the house, Mr. C. F. Byers (Christ Church Law Society), Mr. Christopher Nixon, Mr. M. O'C. Stranders (a guest) and Mr. J. W. J. Cremlyn (ex-President) spoke in favour of the motion, and Miss J. M. Bernal Greenwood, M.B.E., against it, after which the proposer replied. The motion was carried by twelve votes to four, the number of members of the two societies and guests present being twenty-nine.

The next meeting of the Society will be held in Gray's Inn Common Room at 8.15 p.m. on Thursday, 22nd November, when the Annual Ex-Presidents' Debate will take place, the motion being : " That democracy is obsolete." This motion will be proposed by Master Malcolm Hilbery, K.C. (ex-President) and opposed by Mr. P. H. Gibbins, M.C. (ex-President).

The Annual Ladies' Night Debate will be held in Gray's Inn Hall at 8.15 p.m. on Wenesday, 28th November. The subject will be : " Self-Government for India," the terms of the motion being settled after the publication of the Report of the Joint Select Committee. The speakers will be Brig.-Gen. Sir Henry Page Croft, Bart., C.M.G., M.P. (visitor), The Rt. Hon. Lord Eustace Percy, M.P. (visitor), Lt.-Col. R. V. K. Applin, D.S.O., M.P., and The Most Hon. The Marquess of Dufferin and Ava.

Lincoln's Inn.

GRAND DAY.

Wednesday, 14th November, being the Grand Day of Michaelmas Term at Lincoln's Inn, the Treasurer (Mr. Evan Lewis Thomas, K.C.) and the Masters of the Bench entertained at dinner the following guests :—

The Japanese Ambassador, Mr. Norman Davis, the Earl of Ilchester, Viscount Leverhulme, Lord Chalmers, the Lord Chief Justice, the Master of the Rolls, Admiral Yamamoto, Admiral Standley, Mr. Justice Goddard, Sir Guy Granet, Sir Gerald Wollaston (Garter Principal King of Arms), Sir James Jeans, Sir William Llewellyn (president of the Royal Academy of Arts), Professor G. M. Trevelyan, O.M., the Rev. Dr. Nathaniel Micklem, Professor H. C. Gutteridge, K.C., Professor W. W. Watts, Captain Oswald Birley, Mr. Sidney Loney, the President of The Law Society (Mr. Harry R. Blaker), Mr. E. G. V. Knox, and the Under-Treasurer (Sir Reginald Rowe).

The Benchers present on the occasion, in addition to the Treasurer, were :—

Sir Alfred Hopkinson, K.C., Lord Warrington of Clyffe, Mr. Justice Eve, Sir Paul Lawrence, Lord Danesfort, K.C., Mr. C. E. E. Jenkins, K.C., Sir Thomas Hughes, K.C., Sir Frederick Pollock, K.C., Lord Blanesburgh, Lord Justice Romer, Lord Alness, Sir Felix Cassel, K.C., Lord Russell of Killowen, Mr. Justice Macnaghten, Lord Justice Best, Mr. Theobald Mathew, Sir Arthur Colefax, K.C., Sir Arthur Underhill, Lord Justice Maugham, Mr. R. E. L. Vaughan Williams, K.C., Sir Herbert Cunliffe, K.C., Mr. J. F. W. Galbraith, K.C., M.P., Mr. Justice Luxmoore, Mr. Alfred Adams, Sir William Holdsworth, K.C., Sir Gerald Hurst, K.C., M.P., Sir Percival Clarke, Mr. W. E. Tyldesley Jones, K.C., His Honour Hugh Sturges, K.C., Judge Reeve, K.C., Mr. Justice Stafford Crossman, Mr. Wilfrid M. Hunt, Mr. Tom Eastham, K.C., Mr. J. H. Stamp, Mr. A. L. Ellis, Mr. Justice Bennett, Mr. Gavin Simonds, K.C., Mr. H. B. Vaisey, K.C., Mr. R. H. Hodge, Mr. H. F. F. Greenland, Mr. F. D. Morton, M.C., K.C., Mr. A. E. Russell, Mr. R. A. Willes, and Mr. L. L. Cohen, K.C.

Middle Temple.

GRAND DAY.

Tuesday, 13th November, being the Grand Day of Michaelmas Term at the Middle Temple, the Treasurer (Mr. St. J. G. Micklethwait, K.C.) and the Masters of the Bench entertained at dinner the following guests :—

Lord Blanesburgh, Lord Macmillan, the Hon. Sir Reginald Coventry, K.C., Lord Justice Roche, Captain the Hon. Arthur Somerset, Sir William Barber, Sir Thomas Forster, K.C., Sir Nigel Davidson, Sir Gerald Wollaston (Garter King of Arms), Judge Thomas, Colonel S. L. Cummins, Mr. John Buchan, M.P., Mr. F. P. M. Schiller, K.C., Mr. H. R. Blaker (President of The Law Society), Canon S. C. Carpenter (Master of the Temple), Surgeon Captain Andrews, R.N., Mr. Percy Liddell, Mr. J. Tumim, Mr. John H. T. Woodd, Mr. E. W. E. Micklethwait, the Rev. J. F. Clayton (Reader at the Temple Church), Mr. T. F. Hewlett (Under-Treasurer), and Mr. H. A. C. Sturgess (Librarian).

The Benchers present, in addition to the Treasurer, were :—

Judge Ruegg, K.C., Mr. B. C. Aspinall, K.C., Lord Craigmyle, Judge Sir Alfred Tobin, K.C., Mr. Edward Shortt, K.C., Sir Lynden Macassey, K.C., Mr. Heber L. Hart, K.C., Lord Salvesen, Mr. Justice Hawke, The Hon. S. O. Henn Collins, K.C., Mr. A. M. Dunne, K.C., Sir Henry S. Cautley, K.C., M.P., Mr. J. M. Gover, K.C., Judge Dumas, Sir Edward Tindal Atkinson, Mr. J. C. Jackson, K.C., M.P., Sir Ian Macpherson, K.C., M.P., Mr. Justice du Parcq, Sir Thomas Molony, and Mr. E. A. Digby, K.C.

University of London Law Society.

The weekly meeting of the University of London Law Society was held last Tuesday at Gower-street, when a Mock Parliament proved a great success.

Questions to Ministers were asked till 9.0 p.m., when the Premier (Miss Arnold) introduced a motion : " That an address be delivered to His Majesty, asking for the appointment of two women to the King's Bench Division."

The following spoke on the motion : Home Secretary, Mr. F. E. C. Wood ; Minister for Air, Mr. Rogers ; Hon. Member for Shell-in-the-Tank, Miss Duffel ; Leader of the Opposition, Mr. John Wood ; Hon. Member for Lincoln's Inn, Mr. Stranders ; Hon. Member for Stick-in-the-Mud, Mr. Jacobs ; Hon. Member for Chipping Sodbury, Mr. Kelly ; Chancellor of the Exchequer, Mr. R. F. Breland Waters (seconder of the motion) ; Minister of Transport, Mr. Fartado ; Hon. Member for Hogsnorton, Mr. Brocker ; Hon. Member for Stratford atte Bowe, Mr. Gower.

The Premier having replied the motion was defeated.

The Medico-Legal Society.

An ordinary meeting of the Society will be held at 11, Chandos-street, Cavendish-square, W.1, on Thursday, the 22nd November, at 8.30 p.m., when a Paper will be read by Mr. Horace Shelley, M.R.C.S. (Eng.), L.R.C.P. (Lond.), D.T.M. & H. (Eng.) (Government Pathologist, Nyasaland), on " Observations on some Medico-Legal Experiences in Nyasaland, British East Africa," which will be followed by a discussion.

Members may introduce guests to the meeting on production of the member's private card.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. RICHARD A. WILLES be appointed Recorder of Coventry, to succeed Mr. J. F. Eales, K.C., who has been appointed Recorder of Nottingham. Mr. Willes, who was Recorder of Newark-on-Trent and has been deputy chairman of Warwickshire Quarter Sessions since 1921, was called to the Bar by Lincoln's Inn in May, 1905.

It is announced from the Colonial Office that the King has been pleased to approve the appointment of Mr. GEORGE EDWARD FUGL RICHARDS, Crown Attorney and Magistrate, Dominica, to be Chief Justice and Magistrate, St. Lucia, in succession to the late Mr. Thomas William Savile Garraway.

Mr. Charles Martin Sidney Wells, M.A. (Cantab.), has been appointed Second Assistant Solicitor to the Leicestershire County Council. Mr. Wells, who was formerly in private practice, was admitted a solicitor in 1932.

At a Parliament of the Masters of the Bench, Mr. A. M. Langdon, K.C., was elected Treasurer of the Inner Temple.

Mr. William Leonard Ives, LL.B., Parliamentary Assistant to the Metropolitan Water Board, has been appointed Deputy Clerk to the Lee Conservancy Board and the Lee Conservancy Catchment Board. Mr. Ives was called to the Bar by the Middle Temple in 1930.

INNER TEMPLE SCHOLARSHIPS.

As a result of a recent examination the following scholarships and prizes have been awarded to members of the Inner Temple :—

Mr. D. Lloyd a Yarborough Anderson Scholarship of £100 a year for three years.

Mr. G. C. Dare and Mr. L. J. Solley Profumo Prizes of 100 guineas.

Mr. F. H. Lawton a Paul Methven Prize of £75.

Mr. J. Muir Watt a Poland and a Jardine Studentship Prize of £23 10s. and £40 respectively.

NATIONAL HEALTH INSURANCE: ARREARS PAYMENTS.

The Minister of Health has decided to extend the period of grace within which insured persons other than voluntary contributors may pay any arrears of National Health Insurance contributions in respect of the contribution year which ended on the 1st July last. The period of grace would normally expire on the 30th November, 1934, but will be extended to the 31st March, 1935, so that any insured person in arrears, who makes the appropriate payment before the 31st March next, will be entitled to full cash benefits in 1935, after a waiting period of four weeks from the date of the arrears payment.

Any insured person requiring further information should write to his Approved Society, quoting his membership number.

Court Papers.

Supreme Court of Judicature.

Rota of Registrars in Attendance on

Date.	Emergency Rota.	Appeal Court No. 1.	Group I. Mr. Justice Eve. Witness. Part I.	Mr. Justice Bennett. Witness. Part II.
	Group I.		Group II.	
	Mr.	Mr.	Mr.	Mr.
Nov. 19	Jones	More	*Hicks Beach	*Jones
„ 20	Ritchie	Hicks Beach	*Blaker	Hicks Beach
„ 21	Blaker	Andrews	*Jones	*Blaker
„ 22	More	Jones	*Hicks Beach	Jones
„ 23	Hicks Beach	Ritchie	Blaker	*Hicks Beach
„ 24	Andrews	Blaker	Jones	Blaker
	Mr. Justice Crossman. Non-Witness.	Mr. Justice Clauson. Non-Witness.	Mr. Justice Luxmoore. Witness. Part II.	Mr. Justice Farwell. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Nov. 19	Blaker	Andrews	More	*Ritchie
„ 20	Jones	More	*Ritchie	*Andrews
„ 21	Hicks Beach	Ritchie	Andrews	*More
„ 22	Blaker	Andrews	*More	Ritchie
„ 23	Jones	More	Ritchie	*Andrews
„ 24	Hicks Beach	Ritchie	Andrews	More

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

A UNIVERSAL APPEAL

To Lawyers: For a Postcard or a Guinea for a Model Form of Bequest to the Hospital for Epilepsy and Paralysis, Maida Vale, W.9.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 22nd November, 1934.

	Div. Months.	Middle Price 14 Nov. 1934.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	118¾	3 7 4	2 16 10
Consols 2½%	JAJO	90	2 15 7	—
War Loan 3½% 1952 or after	JD	107½	3 5 1	2 19 1
Funding 4% Loan 1960-90	MN	119¾	3 6 9	2 17 7
Funding 3% Loan 1959-69	AO	102¾	2 18 4	2 16 11
Victory 4% Loan Av. life 29 years	MS	118¾	3 7 4	3 0 4
Conversion 5% Loan 1944-64	MN	121¾	4 2 2	2 5 8
Conversion 4½% Loan 1940-44	JJ	115¼	3 18 1	1 14 11
Conversion 3½% Loan 1961 or after	AO	110¼	3 3 6	2 18 8
Conversion 3% Loan 1948-53	MS	104¾	2 17 3	2 11 5
Conversion 2½% Loan 1944-49	AO	101⅓	2 9 3	2 6 5
Local Loans 3% Stock 1912 or after	JAJO	97¼	3 1 8	—
Bank Stock	AO	390½	3 1 5	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	91	3 0 5	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	112½	4 0 0	3 8 6
India 3½% 1931 or after	JAJO	98	3 11 5	—
India 3% 1948 or after	JAJO	89	3 7 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	121	3 14 5	3 6 3
Sudan 4% 1974 Red. in part after 1950	MN	114	3 10 2	2 17 10
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 16 5
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	102	2 18 10	2 16 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	112½	4 0 0	2 10 9
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 5 4
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	106	3 10 9	3 4 2
Canada 4% 1953-58	MS	113	3 10 10	3 1 9
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	103	3 8 0	—
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
Nigeria 4% 1963	AO	112	3 11 5	3 7 0
Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 4
South Africa 3½% 1953-73	JD	106xd	3 6 0	3 1 6
*Victoria 3½% 1929-49	AO	102	3 8 8	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940-60	AO	99	3 0 7	3 1 2
Essex County 3½% 1952-72	JD	106	3 6 0	3 1 3
*Hull 3½% 1925-55	FA	103	3 8 0	—
Leeds 3% 1927 or after	JJ	95	3 3 2	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	87½xd	2 17 2	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96½xd	3 2 2	—
Manchester 3% 1941 or after	FA	96	3 2 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101xd	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	97	3 1 10	3 2 1
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	100	3 0 0	3 0 0
Middlesex County Council 4% 1952-72	MN	112	3 11 5	3 2 4
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 5 7
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106	3 6 0	3 4 2
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115	3 9 7	—
Gt. Western Rly. 4½% Debenture	JJ	125½	3 11 9	—
Gt. Western Rly. 5% Debenture	JJ	133½	3 14 11	—
Gt. Western Rly. 5% Rent Charge	FA	132½	3 15 6	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	130	3 16 11	—
Gt. Western Rly. 5% Preference	MA	115½	4 6 7	—
Southern Rly. 4% Debenture	JJ	114	3 10 2	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112½	3 11 1	3 6 2
Southern Rly. 5% Guaranteed	MA	127	3 18 9	—
Southern Rly. 5% Preference	MA	115½	4 6 7	–

*Not available to Trustees over par. † Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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ANNUAL REPORT and full particulars of the work gladly supplied by the Acting Secretary, Mr. D. T. ROBERTS. (Phone: East 5068.)

Where Help is Needed.

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59, LORDSHIP-LANE, EAST DULWICH, S.E.22. Freehold shop and upper part let on repairing lease at £156 p.a.

34, CASTLETOWN-ROAD, WEST KENSINGTON, W.14. House comprising two self-contained flats yielding Gross £157.

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